

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY TELEPHONE, A)	
SERVICE CORPORATION,)	
(PEOPLES ACCESS NETWORK, INC.))	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 95-347
)	
BELLSOUTH TELECOMMUNICATIONS,)	
INC., d/b/a SOUTH CENTRAL)	
BELL TELEPHONE COMPANY,)	
)	
DEFENDANT)	

O R D E R

On July 27, 1995, Kentucky Telephone, A Service Corporation also called Peoples Access Network, Inc., ("Kentucky Telephone") filed a motion, which the Commission treated as a Complaint, seeking approval of its proposed Special Arrangement with BellSouth. The Special Arrangement allows Kentucky Telephone to resell BellSouth's ESSX Service at noncontinuous locations throughout the state of Kentucky. Kentucky Telephone does not specifically ask the Commission to expand or change the conditions set forth in BellSouth's Shared Tenant Service Tariff which allows resale, but appears to request approval for Kentucky Telephone only to sell Shared Tenant Service in a noncontinuous property situation.

Under BellSouth's tariffs for these services, resale of ESSX Service is not permitted and resale of Shared Tenant Service is only permitted under certain conditions. Kentucky Telephone's

request to resell ESSX Service "without limitation to property" and its apparent request to provide Shared Tenant Service in the same fashion, does not satisfy the conditions set for in BellSouth's General Subscriber Services Tariff A.27, which allows resale of Shared Tenant Service. That tariff permits resale "where facilities permit and within the confines of specifically identified continuous property areas."

The motion Kentucky Telephone filed on July 27, 1995 raises significant policy issues which affect the provision of telecommunications services to the citizens of Kentucky and which are currently pending before the Commission in Administrative Case No. 355.¹

On September 12, 1995, Kentucky Telephone filed three additional motions: 1) Request For Informal Hearing And Reply To BellSouth Telecommunications, Inc., 2) Motion to Substitute Named Complainant From Kentucky Telephone A Service Corp. To Peoples Access Network, Inc., and 3) Motion To Reconsider Case No. 95-333 Or In The Alternative To Allow Complainant In Case No. 95-347 To Be Considered Grandfathered.

On October 26, 1995, the Commission granted Kentucky Telephone's motion for an informal conference. It was held on November 14, 1995. During the conference, it became apparent that the issues raised by Kentucky Telephone should be considered in

¹ Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate.

Administrative Case No. 355 and that Kentucky Telephone should be given the opportunity to participate in that docket and not in Case No. 95-333.²

BellSouth's Multi-Serv tariffs, which supplant BellSouth's previously filed ESSX tariffs, were approved without intervention or opposition on September 1, 1995 in Case No. 95-333. Kentucky Telephone was not a party to that docket, and it had no standing to request reconsideration or suspension of those tariffs.

Furthermore, Kentucky Telephone presents no basis for granting it "grandfather" status. Granting that motion would require BellSouth to administer a separate tariff solely for the purpose of serving a single customer. Grandfathering is not appropriate under such circumstances and should only be used when a tariff change presents a particular hardship on current customers.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky Telephone's Complaint, which does not state a need for expedited treatment, should be dismissed. The issues raised by Kentucky Telephone in its Complaint should be incorporated into the proceedings of Administrative Case No. 355 and Kentucky Telephone should be granted limited intervention in that case.

Consequently, Kentucky Telephone's Motion For Special Arrangement and its Motion To Reconsider Case No. 95-333 Or In The

² Case No. 95-333, The Tariff Filing of South Central Bell to Introduce MultiServ and MultiServ Plus Services Replacing ESSX and Digital ESSX Services.

Alternative To Allow Complainant In Case No. 95-347 To Be Considered Grandfathered should be denied. The Commission also finds that Kentucky Telephone's Motion To Substitute Named Complainant From Kentucky Telephone, A Service Corp. To Peoples Access Network, Inc. should be granted.

IT IS THEREFORE ORDERED that:

1. Kentucky Telephone's Motion For Special Arrangement is denied.

2. Kentucky Telephone's Motion To Reconsider Case No. 95-333 Or In The Alternative To Allow Complainant In Case No. 95-347 To Be Considered Grandfathered is denied.

3. Kentucky Telephone's Motion To Substitute Named Complainant From Kentucky Telephone, A Service Corp. To Peoples Access Network, Inc. is granted.

4. The issues raised by Kentucky Telephone in Case No. 95-347 shall be incorporated into the proceedings in Administrative Case No. 355.

5. Kentucky Telephone shall be granted limited intervention in Administrative Case No. 355 and, as a result, shall receive copies of all Commission Orders entered in that case, but shall not be served with filed testimony, exhibits, pleadings, correspondence or other documents submitted by the parties.

6. Kentucky Telephone shall be served with filed testimony, exhibits, pleadings, correspondence, or other documents submitted by the parties in Administrative Case No. 355, if it requests and is granted full intervention.

7. Kentucky Telephone may file comments in Administrative Case No. 355 by no later than February 1, 1996.

8. This case is dismissed.

Done at Frankfort, Kentucky, this 3rd day of January, 1996.

PUBLIC SERVICE COMMISSION

Linda K Breathitt
Chairman

Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills
Executive Director